

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JUAN A. GONZALEZ,

Plaintiff,

v.

THE GEO GROUP, INC., et al.,

Defendants.

C22-5042 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendants' second motion in limine, docket no. 67, is RENOTED to Wednesday, April 12, 2023, and Plaintiff shall provide a response on or before the new noting date.

(2) In his response, Plaintiff shall also address whether the Court should, sua sponte, reconsider its prior ruling denying Defendants' motion for summary judgment, docket no. 31, as it relates to Plaintiff's second claim for violation of the Washington Family Care Act ("WFCA"). The WFCA prohibits an employer from terminating an employee for exercising his or her right to use available paid sick leave to care for certain family members with serious health conditions, such as a child, spouse, or parent of the employee. *See* RCW 49.12.270. In his complaint, Plaintiff alleges that Defendants terminated his employment for using and/or attempting to use his available paid sick leave to care for his spouse. Compl. at ¶¶ 3.7–3.10 (docket no. 1-3). The record does not support that Defendants ever denied Plaintiff's request to use his available paid sick leave. Rather, Plaintiff argues that Defendants punished him by taking time from Plaintiff's accrued paid sick leave balance instead of coding his absences as previously approved unpaid leave under the Family and Medical Leave Act ("FMLA"). *See* Pl.'s Resp. to Mot. for Summ. J. at 3–4 (docket no. 44); Gonzalez Decl. at ¶ 20 (docket

1 no. 45). Under the FMLA, however, an employer may require an eligible employee to
2 “substitute” any “accrued paid vacation leave, personal leave, or family leave of the
3 employee” for unpaid leave under the statute. 29 U.S.C. § 2612(d)(2)(A). Consistent
4 with this provision, Defendants’ employee handbook provides that, at Defendants’
5 option, an employee’s vacation or paid sick leave may be substituted for unpaid leave
under the FMLA. *See* Ex. A to Suppl. Scott Decl. (docket no. 53-1). Thus, even if
Defendants had coded Plaintiff’s absences as approved unpaid leave under the FMLA,
Defendants appear to have had the option to require Plaintiff to use his available paid sick
leave concurrently with his FMLA leave.

6 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
7 record.

8 Dated this 6th day of April, 2023.

9 Ravi Subramanian
Clerk

10 s/Laurie Cuaresma
11 Deputy Clerk